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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,866	03/23/2004	Ted M. Dean	T32123US	5509

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EXAMINER	
NORDMEYER, PATRICIA L	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
03/08/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/807,866	DEAN ET AL.	
	Examiner	Art Unit	
	Patricia L. Nordmeyer	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 January 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-13 and 22-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-13,22,24 and 25* is/are rejected.

7)☒ Claim(s) *23 and 26* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/15/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Withdrawn Rejections

Any rejections and or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

Repeated Rejections/Objections

1. The 35 U.S.C. 103(a) rejection of claims 1, 2, 4 – 13 and 22 over Repaci et al. (USPN 6,109,852) in view of Miles (USPN 6,383,591) and Belt (USPN 6,405,778) in the office action dated September 15, 2009 is repeated as Applicant's arguments in the response dated January 15, 2010 are found to be unpersuasive. The rejection is repeated below for Applicant's convenience.

Repaci et al. disclose a merchandising strip (Figures 1 and 2, #10) for displaying a plurality of discrete packages (Column 6, lines 22 - 38), comprising: an elongated, narrow strip of plastic capable of supporting a plurality of discrete packages (Figures 1 and 2, #12; Column 6, lines 22 - 38) said strip of plastic (Column 5, lines 23 – 27) having a plurality of edges along a longitudinal axis (Figure 1, #10), said strip of plastic having a first side and a second side (Figure 4), and a plurality pre-shaped of adhesive elements (Figure 3), said plurality of adhesive elements having an adhesive substance (Figure 1, #20 – 25), each adhesive element capable of removably adhering to a discrete package of the plurality of discrete packages (Column 7, lines 31 - 34), said plurality of adhesive elements laminated on top of the surface (Figure 1, #20 – 25) said second side of said strip of plastic (Figure 1, #20 - 25), whereby the edges of said adhesive element are exposed above the surface of said second side (Figures 3 and 3; #20, 22 and 23) as in

claim 1. For claim 2, the strip of plastic is clear plastic (Column 5, lines 24 - 27). As in claims 6 and 7, the adhesive elements have a rectangular or square configuration (Figure 1, #20 - 25). With regard to claim 12, said strip has first and second ends and has a hole near one end of said strip, to allow said strip to be hung vertically for display (Column 7, lines 28 - 34). However, Rodriquez fails to disclose said first side being coated, wherein the coating of said first coated side is substantially non-adhesive to said plurality of adhesive elements, whereby ease in rolling and unrolling said plastic strip along the longitudinal axis is enabled by said coated side and adhesive element combination, said coating on said first side is comprised of silicone, said adhesive elements each have a circular, triangular, pentagonal, oval or star configurations, said strip has first and second ends and has first and second holes, one such hole being near each end of said strip, to allow said strip to be hung vertically for display without regard to the orientation of any such packages attached to said adhesive elements and plastic being positioned and arranged into a rolled state along the longitudinal axis of the plastic strip.

Miles teaches a strip (10) comprising an elongated, narrow strip (14) of transparent plastic (col. 13, lines 15-18) having a first coated side (col. 6, lines 42-48), the coating on said first side covering the entire surface of such first side (because the patent does particularly specify that it is partially coated as arguably admitted by the applicant is the Appeal Brief of 10/2/2007, page-5, lines 17-18), and a second uncoated side (figure-2 showing the side with the adhesive (26)), whereby said coated side is coated with silicone (Column 6, lines 42 – 48) that allows said strip to be easily rolled up and unrolled from a roll (col. 6, lines 42-48) and the strip has first and second holes, one such hole being near each end of said strip (such as perforation as

recited in col. 12, lines 32-33 which includes a hole at each end of the line of perforations) for the purpose of facilitating the unwinding of the sheeting from a roll (Column 6, lines 45 – 46).

Belt teaches said plastic being positioned and arranged into a rolled state (Figure 1, #32) along the longitudinal axis of the plastic strip (Figure 6) for the purpose of forming an article for displaying a plurality of items (Column 1, line7).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the first side coated with silicone and the plastic being positioned and arranged into a rolled state along the longitudinal axis of the plastic strip in Rodriquez in order to facilitate the unwinding of the sheeting from a roll as taught by Miles and to form an article for displaying a plurality of items as taught by Belt.

Repaci et al., as discussed above, fails to teach that the adhesive elements configuration is circular, triangular, pentagonal, oval, or star. It would have been an obvious matter of design choice to modify Repaci et al adhesive pattern such that each of the adhesive elements having the dot shape is modified to have a circular, triangular, pentagonal, oval or star configuration to provide for a discontinuous pattern for controlling the adhesiveness, and such a change in shape would have obvious to one having ordinary skill in the art. MPEP 2144.04 (IV).

With regard to the limitation of "one such hole being near each end of said strip, to allow said strip to be hung vertically for display without regard to the orientation of any such packages

attached to said adhesive elements", it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a second hole at the second end of the strip, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. MPEP 2144.04 (VI).

2. The 35 U.S.C. 103(a) rejection of claims 24 and 25 over Repaci et al. (USPN 6,109,852) in view of Miles (USPN 6,383,591), Bown et al. (USPN 5,366,777) and Belt (USPN 6,405,778) in the office action dated September 15, 2009 is repeated as Applicant's arguments in the response dated January 15, 2010 are found to be unpersuasive. The rejection is repeated below for Applicant's convenience.

Repaci et al. disclose a merchandising strip (Figures 1 and 2, #10) for displaying a plurality of discrete packages (Column 6, lines 22 - 38), comprising: an elongated, narrow strip of plastic capable of supporting a plurality of discrete packages (Figures 1 and 2, #12; Column 6, lines 22 - 38) said strip of plastic (Column 5, lines 23 – 27) having a plurality of edges along a longitudinal axis (Figure 1, #10), said strip of plastic having a first side and a second side (Figure 4), and a plurality pre-shaped of adhesive elements (Figure 3), said plurality of adhesive elements having an adhesive substance (Figure 1, #20 – 25), each adhesive element capable of removably adhering to a discrete package of the plurality of discrete packages (Column 7, lines 31 - 34), said plurality of adhesive elements laminated on top of the surface (Figure 1, #20 – 25) said second side of said strip of plastic (Figure 1, #20 - 25), whereby the edges of said adhesive element are exposed above the surface of said second side (Figures 3 and 3; #20, 22 and 23).

However, Rodriquez fails to disclose said first side being coated, wherein the coating of said first coated side is substantially non-adhesive to said plurality of adhesive elements, whereby ease in rolling and unrolling said plastic strip along the longitudinal axis is enabled by said coated side and adhesive element combination, said coating on said first side is comprised of silicone, the pre-shaped adhesive elements being spaced from the longitudinal edges of the strip and plastic being positioned and arranged into a rolled state along the longitudinal axis of the plastic strip.

Miles teaches a strip (10) comprising an elongated, narrow strip (14) of transparent plastic (col. 13, lines 15-18) having a first coated side (col. 6, lines 42-48), the coating on said first side covering the entire surface of such first side (because the patent does particularly specify that it is partially coated as arguably admitted by the applicant is the Appeal Brief of 10/2/2007, page-5, lines 17-18), and a second uncoated side (figure-2 showing the side with the adhesive (26)), whereby said coated side is coated with silicone (Column 6, lines 42 – 48) that allows said strip to be easily rolled up and unrolled from a roll (col. 6, lines 42-48) and the strip has first and second holes, one such hole being near each end of said strip (such as perforation as recited in col. 12, lines 32-33 which includes a hole at each end of the line of perforations) for the purpose of facilitating the unwinding of the sheeting from a roll (Column 6, lines 45 – 46).

Bown et al teach a plastic strip (Figure 1) having pre-shaped adhesive elements being spaced from the longitudinal edges of the strip (Column 3, lines 58 – 68) for the purpose of attaching packages the strip (Column 3, lines 58 – 59).

Belt teaches said plastic being positioned and arranged into a rolled state (Figure 1, #32) along the longitudinal axis of the plastic strip (Figure 6) for the purpose of forming an article for displaying a plurality of items (Column 1, line7).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the first side coated with silicone and the plastic being positioned and arranged into a rolled state along the longitudinal axis of the plastic strip in Rodriquez in order to facilitate the unwinding of the sheeting from a roll as taught by Miles and to attach packages to the strip as taught by Bown et al. to form an article for displaying a plurality of items as taught by Belt.

Allowable Subject Matter

3. Claims 23 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed January 15, 2010 have been fully considered but they are not persuasive.

In response to Applicant's argument that Miles is not analogous art and that the Examiner's scope of analogous art is too broad in that all teachings of plastic materials having

adhesive surface would reside in any particular person who is skilled in the art of retail merchandising strips is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the prior art is reasonably pertinent to the particular problem with which the applicant was concerned. Miles shows that it is known to have an elongated, narrow strip (14) of transparent plastic (col. 13, lines 15-18) having a first coated side (col. 6, lines 42-48), the coating on said first side covering the entire surface of such first side (because the patent does particularly specify that it is partially coated as arguably admitted by the applicant is the Appeal Brief of 10/2/2007, page-5, lines 17-18), whereby said coated side is coated with silicone (Column 6, lines 42 – 48) that allows said strip to be easily rolled up and unrolled from a roll (col. 6, lines 42-48). Repaci et al. discloses that it is known to have a strip of plastic (Column 5, lines 23 – 27) having a plurality of edges along a longitudinal axis (Figure 1, #10), said strip of plastic having a first side and a second side (Figure 4), and a plurality pre-shaped of adhesive elements (Figure 3), said plurality of adhesive elements having an adhesive substance (Figure 1, #20 – 25), each adhesive element capable of removably adhering to a discrete package of the plurality of discrete packages (Column 7, lines 31 - 34), said plurality of adhesive elements laminated on top of the surface (Figure 1, #20 – 25) said second side of said strip of plastic (Figure 1, #20 - 25), whereby the edges of said adhesive element are exposed above the surface of said second side (Figures 3 and 3; #20, 22 and 23). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided to

combine the references since some teaching, or suggestion to do so is found in the knowledge generally available to one of ordinary skill in the art since both references are directed towards plastic materials having an adhesive surfaces.

5. With regard to Applicant's argument that the Miles is directed towards supporting only the sheet structure itself onto an object greater weight or size while the merchandising strip is directed towards the opposite functionality, Miles is being used to show that it is known in the art to have plastic substrates containing an adhesive on one side and a silicone release layer on the opposite side, wherein the release layer allows said strip to be easily rolled up and unrolled from a roll. Miles is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Miles shows that it is known to coat a side of the plastic substrate opposite an adhesive with the release coating.

Applicant's argument against the Miller reference on page 8 of the arguments is confusing as there is no Miller reference presented in the rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571)272-1496. The examiner can normally be reached on Mon.-Fri. from 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia L. Nordmeyer
Primary Examiner
Art Unit 1794

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Primary Examiner, Art Unit 1794